

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

DAVID BENNETT.

Plaintiff,

V.

IMMIGRATION AND NATURALIZATION SERVICE, et al.,

Defendants.

Case No. 24-cv-04157-JSC

ORDER OF DISMISSAL; DENYING MOTION FOR CERTIFICATE OF CITIZENSHIP, PASSPORT AND TRAVEL PAPERS

Re: Dkt. No. 11

INTRODUCTION

Plaintiff, an inmate at the Yolo County Jail who is proceeding without representation by an attorney, filed this civil action. He is granted leave to proceed in forma pauperis in a separate order. For the reasons discussed below, the Complaint is DISMISSED without leave to amend for failure to state a claim that is capable of judicial determination, and his motion for “certificate of citizenship and travel papers and passport” (ECF No. 11) is DENIED.

BACKGROUND

Plaintiff alleges he is not a United States citizen, and in 2006 the Immigration and Naturalization Services (“I.N.S.”)¹ detained him “for deportation” based upon a conviction for robbery. (ECF No. 1 at 1.) After receiving a “second chance,” he “continued being a career criminal and breached that contract agreement” with convictions in state court for carjacking, escape, and weapons charges between 2006 and 2024. (*Id.*) He asserts his appointed attorney from the Public Defender’s Office of Santa Clara County is “ineffective” and alleges she is “extorting me by embarrassment publishing and distributing my (SCAR) Suspected Child Abuse Report.” (*Id.* at 2.) He made “many attempts” to request his “Yolo County Attorney to hand over

¹ The I.N.S. is now the Department of Immigration and Customs Enforcement ("I.C.E.").

1 this sincitive [sic] SCAR material but he is amazed with it.” (*Id.*) He alleges the “Yolo County
2 Court, the F.B.I., and the Santa Clara County Court refus[e] to prosecute me for my crime I
3 committed.” (*Id.*) He states he does not “feel safe in the United States.” (*Id.*) He seeks to be
4 removed “to federal court for deportation and change of venue.” (*Id.*)

5 STANDARD OF REVIEW

6 Federal courts must engage in a preliminary screening of cases in which prisoners seek
7 redress from a governmental entity or officer or employee of a governmental entity. 28 U.S.C. §
8 1915A(a). The Court must identify cognizable claims or dismiss the complaint, or any portion of
9 the complaint, if the complaint “is frivolous, malicious, or fails to state a claim upon which relief
10 may be granted,” or “seeks monetary relief from a defendant who is immune from such relief.” *Id.*
11 § 1915A(b). Pleadings filed by unrepresented parties must be liberally construed. *Balistreri v.*
12 *Pacifica Police Dep't*, 901 F.2d 696, 699 (9th Cir. 1990).

13 LEGAL CLAIM

14 Plaintiff’s Complaint seeking for “removal” to federal court “for deportation” is not
15 capable of judicial determination. The Department of Immigration and Customs Enforcement
16 (formerly the I.N.S.) is the agency responsible for deportation of non-citizens, so Plaintiff may
17 contact that agency to learn the process and options for him for deportation. The Court is not
18 aware of any authority, and Plaintiff cites none, under which it has the power to order his
19 deportation. Nor is the Court aware of any authority, and Plaintiff cites none, under which it may
20 “remove” his state court criminal case to federal court. The federal removal statute applies to civil
21 cases, not criminal cases. *See* 28 U.S.C. § 1446. For these reasons, the Complaint seeking
22 deportation is not capable of judicial determination.

23 Plaintiff has filed a motion for “certificate of citizenship and travel papers and passport.”
24 (ECF No. 11.) In this motion, he requests to “withdraw” his request for deportation, “exercise his
25 right to be a citizen in the United States,” and obtain “citizenship, travel papers, and visa
26 passport.” (*Id.* at 2.) The Court is not aware of any authority, and Plaintiff cites none,
27 empowering it to grant citizenship, a visa, a passport, or other “travel papers” to Plaintiff. Plaintiff
28 may pursue his requests for a United States citizenship and/or passport by contacting the

1 Department of Homeland Security, which is the agency that oversees I.C.E. and is responsible for
2 granting United States citizenship and passports.

3 **CONCLUSION**

4 For the reasons discussed above, the case is DISMISSED without leave to amend. The
5 motion for a certificate of citizenship, a passport, and travel papers is DENIED.

6 This order resolves docket number 11.

7 The clerk shall enter judgment and close the file.

8 **IT IS SO ORDERED.**

9 Dated: January 10, 2025

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13 JACQUELINE SCOTT CORLEY
14 United States District Judge
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